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Attorney Docket No. AUS920030520US1
Serial No. 10/617,529

II. REMARKS

A. Summary of the Response.

Claims 1 to 64 were presented.

Claims 1 to 38 (Group I claims) were rejected.

Claims 39 to 64 (Group II claims) are withdrawn with traverse.

Claims 1 and 20 are amended.

Claims 1 to 38 remain pending.

B. Restriction requirement

The examiner required restriction under 35 U.S.C. §§121 and 372 on the grounds that the inventions in Group I, claims 1-38, and Group II, claims 39-64 (as identified by the examiner) are distinct, each from the other for the reasons cited by the examiner.

Response: Applicant elects with traverse to prosecute the invention of Group I, claims 1-38.

C. Obviousness Rejection – 35 U.S.C. §103(a)

The examiner rejected claims 1-38 under 35 U.S.C. § 103(a) as being unpatentable over Kiraly et al (U.S. Pat. No. 6,249,606, hereinafter, "Kirlay") and Bauersfeld (U.S. Patent No. 5,917,491, hereinafter, "Bauersfeld").

Response: Independent claims 1 and 20 are amended. Kirlay and Bauersfeld do not teach or suggest, alone or in combination, each of the elements of Applicants' amended claims 1 and 20.

The Examiner has the burden to establish a *prima facie* case of obviousness.

MPEP 2143 states:

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To establish a *prima facie* case of obviousness, three basic criteria must be met. **First**, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. **Finally**, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Independent claims 1 and 20 have been amended to clarify the interaction of the configuration table and operation mode with the drop down menu program. The claims now provide:

1. (presently amended) A programmable apparatus for modifying a drop down menu program, comprising:
a drop down menu program for the display of menu items in a drop down menu;
a configuration table having at least one pointer operation, the pointer operation having a plurality of user selectable operation modes; and
a configuration processor for detecting a changes in the configuration table in response to a user selection of a selectable operation mode and distributing the changes to the drop down menu program; wherein a user interaction with the drop down menu will be in accordance with the user selection.

20. (presently amended) A program product operable on a computer, the program product comprising:
a computer-usable medium;
a drop down menu program for the display of menu items in a drop down menu stored in the computer-usable medium;
a configuration table stored in the computer-usable medium, the configuration table having at least one pointer operation, the pointer operation having a plurality of selectable operation modes; and

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a configuration processor stored in the computer-usable medium, wherein the computer-usable medium, so configured by the configuration processor, causes the computer to detect a changes in the configuration table in response to a selection of operation mode and distribute the changes to the drop down menu program wherein the display of menu items in the drop down menu will be in accordance with the selection of operation mode. (amendment underlined)

Support for this amendment is found in Table 1, pages 17 to 20 and elsewhere throughout the specification.

Applicants agree with the Examiner that "Kirlay does not specifically teach ... "a drop-down menu" [Office action p4]. Instead, Kirlay teaches a method "for gesture category recognition and training." [2:23] Kirlay's "gesture" is not the equivalent of Applicants' "pointer operation." Kirlay traces cursor motion as a function of time and trains the computer program using "multi-dimensional feature vector" [2:44-50] that may use a "radial basis function neural network" [2:48] to associate particular cursor motions with certain application specific menu operations [2:56]. In other words, Kirlay monitors cursor displacement as a function of time and stores that motion as "gesture data" [5:39-50]. Examples of Kirlay's relatively complex "gestures" are given in Figures 4-7, and the time interval mapping is shown in Figure 10.

Kirlay's "gesture category" is application specific. It is the equivalent of a macro that executes all of the commands that are associate with an application menu item "without interacting with the menu hierarchy at all" [17:27-40]. Kirlay's "typical usage" of his invention includes the use of a predetermined gesture to save a word processing document or a separate predetermined gesture to launch an email program and read the mail [7:18-33].

Applicants do not use cursor motion to create application specific macros in order to avoid the interaction between the user and a program application menu. Applicants simplify the

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interaction and personalization between a user and the drop down menu of any application.

Applicants' embodiments are not a substitute for the application menu.

Bauersfeld does not cure the deficiency of Kirlay, nor is it properly combinable with Kirlay. Bauersfeld is a web "page proxy" for bookmarking uniform resource locators (URLs) in a web browser [1:1-9]. Bauersfeld creates a drop down menu to store URL pointers in a structured menu format and to provide convenient and immediate access to the web pages represented by the URL pointers [1:43-45; Fig 3-5]. Bauersfeld may also display useful statistics regarding web page visits [Fig 5]. Bauersfeld uses the standard well known pointer gestures [1:45-52], unlike the complex and application specific gestures of Kirlay.

Bauersfeld does not teach or suggest Applicants' user selectable configuration of the pointer operations. Bauersfeld will always interact with his bookmark drop down menu using the same standard pointer operations in the same in the same way.

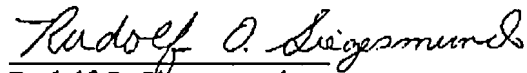
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III. CONCLUSION

Applicants respectfully submit that independent claims 1 and 30 are in a condition for allowance. The other claims through claim 38 are dependent on claims 1 and 30 and contain all of the elements thereof. Accordingly, claims 1-38 are in a condition for allowance. The non-elected Group II Claims 39 to 64 are withdrawn from consideration at this time. If the Examiner believes that a telephone interview would expedite the allowance of this application, the Applicants' counsel may be contacted at the numbers listed below.

Respectfully submitted,



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